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Invisible Barriers to Trade and Travel

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Invisible Barriers to Trade and Travel

I.C.C. Resolution

and

Report

of its Committee on Customs Technique

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Invisible Barriers to Trade and Travel

I

RESOLUTION

adopted by the I.C.C.'s Quebec Congress (June 1949)

IF international trade is to function and develop efficiently and smoothly —an objective to which more than fifty countries have subscribed in signing the Havana Charter—it is essential that administrative regulations and formalities should be designed to help rather than hinder the trader and traveller in their efforts to conduct business within the limits set by commercial and monetary policies. Where trade, transport and travel are controlled, obviously there must be some administrative procedure to implement the control, but this procedure should have no other purpose than to prevent what is unauthorized and facilitate what is authorized.

This is rarely the case to-day. The trader, and particularly the importer, is faced with a maze of regulations and formalities which are *in themselves* a deterrent to conducting and still more to expanding his international business. The same applies to the carrier of the goods, and particularly the shipowner, who is frequently subjected to unnecessary delay and expense owing to vexatious consular and customs formalities, overtime, etc., as well as to the business man and tourist travelling abroad.

The I.C.C. is not concerned in the present Resolution with the underlying policy. It is concerned with the machinery set up for giving effect to that policy. It believes that the expansion of world trade demands a drastic simplification of administrative procedure and formalities whatever the policy followed.

The importance of this to the future development of world trade and travel cannot be over-emphasized. Cumbersome, costly, obscure and changeable regulations and formalities are often as severe a hindrance as the policies from which they arise. The policies are usually subject to public discussion and control and are enforced by the normal legislative process. The administrative procedure is too frequently devised *ad hoc*, without proper consultation of the interests concerned, and goes far beyond the purpose for which it was originally designed. It acts as an *additional*

obstacle or an *additional* protection, rather than simply as a mechanism for giving effect to the control or protection established by law.

The I.C.C. therefore welcomes the provisions of Section E of Chapter IV and other relevant provisions of the Havana Charter as well as the corresponding articles of the General Agreement on Tariffs and Trade. Although there are points of detail on which it dissents from these provisions, it believes that their application, in the spirit as well as in the letter, by all governments would be a useful step forward. They are only a beginning, however. They are too broad and general in their terms to offer a complete solution of the problems dealt with here. In this field it is the detailed application which matters rather than the broad principle. It is for that reason that the I.C.C. sets out below and in the appended report of its Committee specific suggestions for immediate action.

A word of warning might be in place here. There is a tendency to neglect earlier achievements and to start from scratch as though nothing had been done before. This would be particularly regrettable in the field of administrative procedure. There is for instance the 1923 Convention for the Simplification of Customs Formalities which has been signed and ratified by a large number of countries. It is still in force to-day among those countries, and its provisions are in many respects more detailed than those of the Havana Charter. Their application, if made effective in all countries, would be a distinct advance on existing practice. Similarly, throughout the inter-war period practically every aspect of administrative procedure and formalities existing at the time was thoroughly studied by the League of Nations in close consultation with the I.C.C. The conclusions reached are largely valid to-day, and they should be used as a point of departure for further progress rather than be allowed to fall into oblivion.

The I.C.C. has given careful consideration to the practical issue of how best to make rapid progress towards simplification and standardization of formalities and regulations connected with international trade, transport and travel. It believes that in present world conditions there can be little hope of achieving practical results by attempting to draw up universal binding conventions for signature and ratification by all governments. Experience in the inter-war period, as well as more recently, has shown that this method merely results in whittling down the principles adopted at the outset to bring them into line with the lowest common denominator of existing practice.

The I.C.C. therefore suggests that a more practical approach would be to attack the problem simultaneously on the national and international planes by the following procedure :

a) Each government should set up immediately an independent committee of experts, consisting of representatives of business interested in the import and export trades as well as government officials, to revise existing practice in the light of the provisions of the Havana Charter and of the General Agreement on Tariffs and Trade as well as of the 1923 Convention and any other relevant recommendations and reports issued by the League of Nations and other competent international and regional bodies. A progress report should be sent in each year to the Economic and Social Council or to the International Trade Organization.

b) Concurrently, work could be started by the signatory governments of the Havana Charter or of the General Agreement on the elaboration of internationally standardized rules. A small international committee of independent experts could be set up for that purpose, likewise composed of representatives of business interested in the import and export trades as well as of government officials. The rules drafted by these experts should not be submitted in the form of binding universal conventions, but as models for bilateral or limited multilateral agreements or for unilateral action.

The I.C.C. realizes that any attempt to deal with all possible aspects of administrative procedure at the same time would be doomed to failure. In the attached report its Committee on Customs Technique has therefore prepared recommendations on nine questions of outstanding importance which it believes governments might usefully select as a starting point for immediate action. The I.C.C. recommends this report to the earnest attention of individual governments and of the United Nations Organizations concerned.

II

REPORT
of the I.C.C. Committee on Customs Technique

AFTER a preliminary survey of the whole vast field of administrative regulations and formalities connected with international trade, the Committee on Customs Technique of the International Chamber of Commerce has selected nine points where, from the point of view of the business man engaged in international trade, simplification and standardization seem to be most urgently required and where practical results can most easily be obtained within a reasonably short space of time. It has based its study of these nine points not only on relevant portions of the Havana Charter and of the General Agreement on Tariffs and Trade, but also on the 1923 Convention for the Simplification of Customs Formalities and the work of the League of Nations in the inter-war period as well as on previous resolutions and reports of the I.C.C. and the practical experience of trade and industry with particular regard to post-war developments and changes. Although the conclusions it has reached and the recommendations it puts forward are necessarily provisional in character and much work remains to be done on questions of detail arising out of them, the Committee hopes that its report will be useful to the governments and trading communities of the world as a basis for immediate discussion and as a starting point for action.

I. FORMALITIES AND REGULATIONS CONNECTED WITH THE ADMINISTRATION OF IMPORT QUOTAS, LICENCING SYSTEMS AND EXCHANGE CONTROL

Nowhere perhaps are simplification and standardization more urgently needed than in the administration of quota and licencing systems and exchange control. The Committee is aware that many formalities and irksome restrictions are inseparable from the system of quantitative control itself, but it believes that a great deal can be done in all countries to simplify and speed up the necessary procedure and documentary requirements without jeopardizing the effectiveness of the control.

The Committee urges that this question be placed high on the agenda of the national and international committees of experts referred to in the introductory resolution. An international code of fair practice for the administration of all types of quantitative controls would do much to promote the smooth flow of international trade within the limits set by commercial and monetary policies.

The Committee will continue its investigations, particularly as regards exchange control formalities, with a view to submitting more detailed recommendations at a later date.

II. THE NATIONALITY OF GOODS

(1) Definition of the Nationality of Manufactured Products

As long as tariffs were the only means of protection employed by importing countries, the question of the nationality of goods arose mainly in connection with the application of treaty duties and other rates of duty levied exclusively on goods originating from specified countries. But with the rapid growth of quotas and exchange control and the extension of preferential tariff systems, the problem has become increasingly acute.

All countries having adopted much the same definition for the nationality of natural products of the soil and sub-soil, the situation in this respect is satisfactory. But in the case of manufactured products, innumerable difficulties are created for trade by the wide variety of methods employed for determining the nationality of these products as well as in many cases by the unsatisfactory nature of the methods themselves.

The Committee on Customs Technique therefore recommends the adoption by all governments of uniform rules for determining the nationality of manufactured products and proposes for their consideration the following definition based in part upon the work already done in this connection by the Economic Committee of the League of Nations in 1931 :

For the application of treaty duties, intermediate duties, minimum duties and other duties dependent upon the nationality of the imported product [1] as well as in the case of tariff quotas, import quotas and exchange control, the country of origin of manufactured products shall be :

— when all the manufacturing processes have taken place in the same country, the country in which such products have been manufactured ;

— when the manufacturing processes have taken place in more than one country, the country in which the last manufacturing process has taken place, provided that the process is economically justified and important. An "important" manufacturing process shall be one which effects a substantial change in the nature of the product [2].

The Committee further recommends that attempts should be made in collaboration with the industries and trades concerned, to define for specific products particularly in the staple industries what shall be considered as an "important" manufacturing process.

(2) Nationality and Provenance

In view of the growing tendency to consider the route followed by the goods in course of transit to the importing country as well as the immediate provenance of the goods as affecting their nationality and consequently the treatment accorded to them in the matter of customs, quotas and exchange control, the Committee on Customs Technique further recommends the general adoption by governments of the following two principles :

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(1) It is not intended that this definition should apply to preferential duties, which are not subject to most-favoured-nation treatment and cannot therefore be extended to third countries.

(2) The application of this definition to goods imported or exported temporarily will be further studied by the Committee (see also section IX below).

1. The route followed by the goods in the course of transit from the country of origin to the country of destination shall in no way affect the nationality of these goods. This principle shall also apply to any manipulation or handling of the goods in a transit country which does not go far enough to confer a new nationality on the goods. Such manipulation or handling shall include unloading and reloading, unpacking and repacking, and cleaning, whether these operations are carried out under Customs supervision, in free ports, or in free circulation.

2. Goods shall not be excluded from differential treatment due to them on account of their nationality on the ground that they have been shipped to the importing country from or via a third country the like products of which have no claim upon such differential treatment.

III. METHODS OF AD VALOREM VALUATION

Among the many indirect or so-called "invisible" obstacles to the smooth working of international trade, few are more serious than the present legislative or administrative arrangements for assessing the value of goods taxable *ad valorem*. Not only is it extremely difficult and often impossible for the would-be importer or exporter to work out how much duty his goods are liable to pay and therefore the price at which he can sell with a profit on the importing market, but the actual system of valuation may radically alter the incidence of the rate of duty.

The main sources of difficulty for the importer and exporter are the following :

1. The extreme diversity of systems from one country or customs area to another. (An analysis, largely applicable to-day, of the methods applied in 129 countries and customs areas in 1937 is attached in Appendix I) ;

2. The existence of alternative methods of valuation within the same customs area so that the trader cannot be sure in advance which method will be applied to a given batch of merchandise ;

3. Lack of precision in the terms of the law or regulations, so that too much is left to the discretion of the customs officials clearing the goods and doubt remains as to what the basis of valuation really is and what charges are or are not to be included in the dutiable value ;

4. The adoption as the basis of valuation, or more commonly as one of the alternative bases, of a value which turns a low or moderate rate of duty into a high or even prohibitive rate.

5. The application of systems of valuation based on :

a) the wholesale market price of the actual goods imported (or of similar goods) when sold for consumption in the country of export or origin (this implies the inclusion in the dutiable value of internal taxes levied in the country of origin and calls for a system of checking and investigation extremely irksome to the exporting industries) ;

b) the cost price of the goods (this again involves irksome investigat ions in the country of production) ;

c) the sale price of similar domestic goods in the country of import.

6. Excessively strict application of regulations designed to prevent undervaluation, tax evasion, or dumping ;

7. Lack of uniformity and uncertainty as regards the time at which the value is to be assessed (e.g. time of exportation, time of importation, date of dispatch, date of customs declaration, date of consular invoice, time of sale or purchase, date of application for import licence, date of clearance through the customs, etc...).

There is only one fully effective remedy for these difficulties : the universal adoption of a single standard system of valuation. But, in the meantime, a great deal can be done within each country to simplify existing regulations even within the framework of the legislation in force. Using the procedure outlined in the introductory resolution, each country should review and revise existing practice in the light of the following fundamental principles which are designed to complete, and in certain respects to amend, the useful general rules laid down in Article 35 of the Havana Charter and in Article VII of the General Agreement on Tariffs and Trade :

a) No system of valuation should be devised in such a way that it can be used at the discretion of the Customs authorities as a means of altering the incidence of the duty and increasing the protection already afforded by law to domestic industries.

Laws and regulations relating to valuation should have no other aim than to supply the Customs officials, and indirectly the trader, with a simple rule-of-thumb method of ascertaining the real value of a given batch of merchandise and of applying to it the rate of duty fixed by law.

b) With that end in view, whenever a commercial invoice is produced by the importer or his agent and whatever the system of valuation in force, primary consideration should be given by the Customs authorities, in determining the dutiable value of the goods, to the price shown on that invoice, unless there is presumption of deliberate undervaluation or fraud or unlessthe relationship between buyer and seller is such that there is reason to believe that the price shown on the invoice is substantially lower than the price normally practised between independent sellers and buyers. In the latter case, the method of assessment adopted should simply aim at establishing the fair wholesale price, under competitive conditions, of the actual goods imported, if necessary by reference to the price of similar imported goods and should not result in penalizing the importer or giving him less favourable treatment than his competitors. The mere existence of aspecial relationship between buyer and seller should not be taken as *prima facie* evidence of dumping.

c) Pending international standardization along the lines suggested below, the regulations should state clearly and fully the charges to be included in or excluded from the dutiable value and adequate publicity should be given to these regulations.

d) As provided in Article 35, § 4 of the Havana Charter and in Article VII, § 3 of the General Agreement on Tariffs and Trade, internal duties or taxes levied on goods for domestic consumption in the country of export or origin and from which the exported product is exempted should be excluded from the dutiable value.

Concurrently with this revision and simplification of regulations on the national plane, work might usefully be started immediately, either under the Havana Charter or the General Agreement on Tariffs and Trade, on the elaboration of a set of internationally standardized rules. These rules need not necessarily be drawn up in the form of a binding agreement proposed for universal acceptance. They could be put forward by the experts who drafted them as a model for bilateral or limited multilateral agreements and as guidance to each individual government in its further work of revision at home.

The Committee proposes as a preliminary basis of discussion for this work of international standardization the following definitions of dutiable value :

(1) "Basic" Value

By the "basic" value the Committee understands the initial value or price selected by the Customs as a starting-point from which to arrive at the total dutiable value by adding or subtracting certain charges. (For instance, when the duties are levied on the F.O.B. value of the goods, this value is sometimes defined as the current market price in the country of origin plus all charges incurred in bringing the goods to the port of shipment. In that case, the "basic" value would be "the current market price in the country of origin".)

Using the term in that sense, the Committee proposes that the "basic" value should invariably be :

the wholesale price paid or payable by importers for usual wholesale quantities of the actual goods imported, this price to be determined by reference to the price shown on the commercial invoice, unless there is presumption of deliberate undervaluation or fraud or unless the relationship between buyer and seller is such that there is reason to believe that the price shown on the commercial invoice is substantially lower than the price normally practised between independent sellers and buyers, or unless no invoice is available. Where the goods are imported in such small quantities that the price charged for them is higher than the usual wholesale price, a statement to that effect by the exporter on the commercial invoice should entitle the importer to claim a corresponding reduction in the dutiable value of the goods.

When, for the reasons indicated above or for other reasons, it is impossible to determine the usual wholesale price for the goods imported by reference to the price shown on the commercial invoice, the Customs should endeavour to arrive at an equivalent value, representing as closely as possible the fair wholesale price, under competitive conditions of the actual goods imported, if necessary by reference to the price of similar imported goods.

(2) Total Dutiable Value

The Committee believes that it would be of great advantage to trade if Customs authorities would invariably levy *ad valorem* duties on the

F.O.B. or C.I.F. values or the corresponding land transport values, to the exclusion of all other values, since the practice of the Customs would thus be brought more closely into line with business practice.

The Committee offers for Customs valuation purposes the following standard definitions of these two values :

The F.O.B. value of the goods shall be the "basic" value as defined above, plus—to the exclusion of all other charges—all charges incurred in bringing the goods to the port of shipment and in delivering the goods on board the vessel at that port, including, unless dutiable separately, the cost of such packing, coverings, and receptacles as form part of the saleable value of the goods and are not discarded after importation, and including export duties and all taxes and dues payable in respect of the goods in order to deliver them on board.

The corresponding value of the goods in the case of land transport would be the Free on Rail or Free on Truck (F.O.R. or F.O.T.) values, in other words the "basic" value of the goods as defined above, plus—to the exclusion of all other charges—all charges incurred in delivering the goods at the point of departure and in loading them on the railway wagon (car) or motor truck, including, unless dutiable separately, the cost of such packing, coverings and receptacles as form part of the saleable value of the goods and are not discarded after importation, and excluding export duties, unless in the case of rail transport the goods are loaded at the frontier station of the country of importation.

The C.I.F. value of the goods shall be the F.O.B. value as defined above, plus—to the exclusion of all other charges—freight charges to the port of destination and insurance against the usual risks insured against in the particular trade or on the contemplated route, covering the goods during the transport by sea until landed at the port of destination, and excluding landing charges or charges incurred in delivering the goods at the Customs house of the country of importation.

The corresponding value of the goods in the case of land transport would be the F.O.R. or F.O.T. values as defined above, plus—to the exclusion of all other charges—all railway transport charges to the frontier station of the country of importation or, in the case of road transport, all road transport charges to the Customs of the country of importation, including export duties and all other taxes or dues payable in order to deliver them at one or the other point, and excluding unloading costs and, in the case of rail transport, any charges incurred in bringing the goods from the frontier station to the Customs house of the country of importation.

IV. DOCUMENTARY REQUIREMENTS AND CONSULAR FORMALITIES

The Committee strongly endorses the recommendations issued by the I.C.C. on this subject in its report on Barriers to the International Transport of Goods (Brochure 121) which was approved by the I.C.C.'s Montreux Congress in June 1947. It urges that immediate action be taken by

Governments, both nationally and internationally, to give effect to these recommendations which are of particular importance to trading and transport interests throughout the world.

The recommendations may be briefly summarized as follows :

1. Reduction of the number of documents required in the international transport of goods to the following three or at most four, which should be sufficient for all legitimate governmental requirements as well as for the needs of the trader and carrier :

a) transport document (bill of lading, consignment note) ;

b) commercial invoice in standardized form ;

c) packing list when necessary (it obviously serves no useful purpose in the case of goods in bulk like grain) ;

d) in the case of sea and air transport, the manifest.

Only a reasonable number of copies of such documents should be required.

2. Reduction in delays in dealing with shipping documents at Consulates and abolition of overtime charges.

3. Abolition of consular invoices, sometimes called customs invoices, and certificates of origin as separate documents.

4. Abolition of consular visas for commercial invoices as well as for manifests ; abolition of trade association certificates for invoices. It is pointed out in this connection that for many years certain countries have allowed the shipper simply to supply a commercial invoice without any form of certification and that the system has proved to be workable in practice.

5. Abolition of the transit manifest by those countries requiring it.

6. Elimination of the requirements by some governments that certain forms be filled out for aiding them in the compilation of export and import statistics. This information could be obtained from other documents.

7. Abolition of governmental regulations which require the shipper to attempt to classify his goods under specific sections of customs tariff laws of the importing country. (A shipper cannot be expected to know the customs regulations of all the countries with which he does business especially as such regulations are constantly being altered. The shipper is thus inevitably exposed to mistakes and fines).

8. Uniformity of consular practice among consulates representing the same country.

V. PUBLICITY FOR REGULATIONS AND CHARGES

If the international trader is to conduct his business promptly and efficiently, it is essential that he should be able to know in advance with the least possible margin of error what are the *total* charges to which his goods are liable under the import regulations of the country of destination.

In order to achieve this, the competent authorities of each country should publish promptly, and in an easily accessible and understandable form, not only its tariff of customs duties but also all accessory charges and taxes levied in connection with the goods. This should be accompanied by a clear and binding statement of the regulations and formalities which importers and exporters are obliged to observe, covering not only customs matters but also any requirements arising out of quota, licencing, or exchange control regulations.

Similarly, on the international plane the International Customs Tariff Bureau of Brussels, whether working independently or under the auspices of the United Nations or of the I.T.O., should be so equipped and financed as to enable it to include these accessory charges and taxes and import regulations in its international publications and translations. This would imply an obligation on all governments to keep the International Bureau constantly supplied with up-to-date information on all these points.

VI. TREATMENT OF SAMPLES AND ADVERTISING MATERIAL

The Committee urges that, as recommended in Resolution Nº 35 of the I.C.C.'s Montreux Congress, particularly favourable treatment and, where appropriate, total exemption from customs duties, quotas, exchange control and other restrictions should be granted to any article not intended for sale but exclusively designed for use as an instrument of advertising for commerce and travel. Special facilities should also be granted for commercial travellers and their samples.

In the Committee's opinion there should be little difficulty in reaching agreement rapidly among governments on a system of special treatment for samples and advertising material and for commercial travellers. The ground has already been thoroughly prepared by the League of Nations and substantial agreement was reached in 1935 among a number of governments on a Draft Convention for the Purpose of Facilitating Commercial Propaganda. This Draft Convention should be taken immediately as a starting point for working out a final set of recommendations to governments. The League of Nations' Draft is reproduced in Appendix II.

VII. MARKS OF ORIGIN

The Committee welcomes the undertaking by governments in Article 37, paragraph 5, of the Havana Charter to work towards the early elimination of unnecessary marking requirements. As a first step in this direction each government might usefully start by scrutinizing existing marking regulations in the light of Article 37 of the Havana Charter and Article IX of the General Agreement on Tariffs and Trade as well as in the light of the more detailed recommendations put forward by the Economic Committee of the League of Nations in 1931.

In the meantime, the Committee will continue its own investigations of the difficulties and requirements of trade and industry.

VIII. STANDARDIZATION OF CUSTOMS NOMENCLATURES

The Committee welcomes the reference to the standardization of customs nomenclatures in Article 49 of the Havana Charter and urges that immediate steps be taken to reach international agreement on a standard framework for the classification of goods for customs purposes. Preparatory work on this subject was practically completed by the League of Nations before the war, and more recently the Study Group of the European Customs Union has been engaged in drawing up a standard nomenclature for the countries belonging to the O.E.E.C. Rapid progress should therefore be possible on the basis of the preparatory work already accomplished.

It is essential, however, that trade and industry should be closely consulted at every stage of the working out of such standard classifications, so as to ensure that they are in line with normal trading practice for each product.

IX. TEMPORARY ADMISSION OF IMPORTS

The Committee recommends that the whole question of the regime to be applied to goods temporarily imported for subsequent re-export or temporarily exported for subsequent re-import be reviewed by governments in consultation with trade and industry.

Analysis of Present Systems of Customs Valuation

In 1936 *the I.C.C. Committee on Customs Technique made a complete survey, covering* 129 *countries and administrative customs areas, of laws and regulations relating to the* ad valorem *valuation of goods and of the difficulties encountered by traders. As there is no reason to suppose that the situation has fundamentally changed since that time, the results of this inquiry are reproduced below from a report submitted by the Secretary of the Committee to the I.C.C.'s* 1937 *Congress.*

If the bases adopted by the various countries for computing the value of imported goods are classified in the usual way according to the total value on which the duties are levied, they fall roughly speaking into four main classes. The duties are levied either : *a*) on the value of the goods in the country of export or origin, or *b*) on the F.O.B. value of the goods (value for export at place of export), or *c*) on the value of the goods in the country of import (C.I.F. and variants of C.I.F.), or finally *d*) on the value of the goods as officially fixed or estimated by the authorities of the country of import. The same country may of course adopt more than one of these bases.

The great drawback of this method of classification, which has the merit of convenience and simplicity, is that it gives a misleading impression of uniformity and masks the very real diversity underlying the broad definitions of the dutiable value. If all countries defined each of the first three values mentioned above in the same way and without ambiguity, the trader would have very little to complain of. But in point of fact the definitions adopted vary so considerably that it is only a slight exaggeration to say that no two countries have exactly the same basis of valuation.

For instance, to take a comparatively subtle difference between the definitions of two countries which belong to the F.O.B. value category. South Africa includes in the F.O.B. value all charges for placing the goods actually on board the vessel at the port of shipment, whereas Australia excludes charges incurred in the dock area. Further, in South Africa, the term "domestic value", which is the first element of the F.O.B. value, is defined as the "market price at which such or similar goods are offered for sale" in the country of export, and in Australia the corresponding term "current domestic value" is defined as "the amount for which the seller... is selling or would be prepared to sell for cash... the same quantity of identically similar goods..." for consumption in the country of export. It is not hard to imagine cases in which these two definitions would by no means amount to the same thing in practice.

The really important differences do not in fact lie in the total dutiable value upon which the law intends the duty to be levied, but in the way in which that value is made up and above all in the basic value selected as the first element in that value.

This distinction between total dutiable value and basic value is an important one. If three countries, A, B, and C, all levy *ad valorem* duties on the F.O.B. value of the goods, but in country A the F.O.B. value equals the price actually

paid or payable for the goods (basic value) plus x charges, in country B the market price for consumption in the country of export (basic value) plus x charges and in country C the price of similar domestic goods on the markets of the country of import (basic value) less x charges, the actual value on which the duty is levied will obviously be different in each case.

As it is impossible to give a clear account of the various methods of valuation adopted without constantly making use of this distinction, the expression "basic value" is used throughout the present report to designate the initial value or price that each country selects as the foundation on which to build up the total dutiable value.

The following analysis of the different systems of valuation in force has been obtained by splitting up the total dutiable value into its component parts ; it gives a far more accurate picture of the real situation than the broad classification mentioned above.

Variations in the Basic Value

The basic value selected may be :

1. Actual purchase price of goods as shown on commercial invoice or consular invoice ; or
2. Market price of goods when sold for consumption, *a*) in country of origin or *b*) in country of export ; or
3. Market price of goods when sold for export in country of export ; or
4. Cost of production of the goods (U.S.A. only) [1], or
5. Value (price) on arrival at port or place of import (C.I.F.) ; or
6. Value (price) on arrival at customs or in bond ; or
7. Market value (price) in country of import ; or
8. Sale price of similar domestic goods in country of import.

These differences in the basic value are still further complicated by the time-element. The value in the country of export may be either at time of exportation, or at date of dispatch, or at time of direct export, or at date of customs declaration, or at time of delivery for export, or at date of entry of goods in consular invoice. The value in the country of import may be either at date of application for import licence, or at time of purchase, or at time of dispatch, or at date of customs declaration, or at time of importation, or at time of exportation, or at date of clearance through the customs.

Variations in Respect of Charges Added or Deducted

A. When Total Dutiable Value Is Value in Country of Export

1. *Treatment of Packing* : There are two main variations in the treatment of packing. The dutiable value may include :

— the value and cost of all packing, whether packing for consumption in country of export or packing for export, whether inside or outside packing ; or

— only the value and cost of outside packing for export purposes.

In many other cases, it is not clear from the stipulations of the law or regulations whether and to what extent packing has to be included or excluded.

(1) Used in Canada as factor in estimating the true value.

2. *Discounts and Commissions* : In almost all cases, any discounts or commissions other than those usually allowed in the trade for the class of goods in question have to be included in the dutiable value. In certain cases, no allowance is admitted for discounts, etc., at all, even the usual trade discount. In other cases, such deductions have to be marked on the invoice, if allowance is to be made for them.

3. *Excise Duties and Taxes in Country of Export* : Whenever excise duties are mentioned, they are usually excluded from the dutiable value. In many cases, however, the point is not covered. As regards other taxes that may be levied on goods in country of export for home consumption, no explicit provision seems to be made for them in the tariff laws or regulations, but in practice it appears that they are frequently included in the dutiable value.

4. *Export Duties* : Export duties are either included or excluded or not provided for. In the case of duties levied on value in country of export for home consumption, they are presumably excluded, but when the duties are levied on the value free on board at port of shipment, they are presumably included unless otherwise stipulated.

5. *F.O.B. Charges* : When it is intended that charges for placing the goods on board vessel, etc., at port of shipment or place of dispatch are to be included in the dutiable value, this is usually clearly stated. But there are cases where it is not clear from the terms used whether or not such charges are to be included. Expressions such as "value of goods ready for shipment" are not sufficiently explicit as to where exactly the charges included end.

B. When Dutiable Value Is Value in Country of Import

1. *Treatment of Packing* : The value and cost of all packing, etc. are usually included in the dutiable value. Occasionally, e.g. South Africa, only packing for export purposes is included. Even where no provision is made as to packing, it is to be presumed that packing is included, since such costs would logically form part of the price of imported goods in the country of import.

2. *Discounts and Commissions* : Buyer's commission is usually included in dutiable value ; usual trade discounts are sometimes included, sometimes excluded.

3. *Excise Duties, Taxes in Country of Export, Export Duties* : With a few exceptions in the case of export duties, all such duties and taxes are usually included in the dutiable value.

4. *Import Duties and Taxes in Country of Import* : According to the information available, such duties and taxes are in all cases excluded from the dutiable value.

5. *Other Charges* : Freight and insurance up to port of import or place of discharge are always included. Landing and unloading charges are usually included, as well as expenses up to place of customs clearance. There are, however, a number of exceptions to this, in which the true C.I.F. price is taken exclusive of all charges subsequent to delivery on board ship at port of importation. In the case of goods delivered by rail or motor vehicle, unloading expenses are usually included. Under the regulations of certain countries, it does not seem to be clear whether or not the authorities intend unloading and subsequent expenses to be included in the dutiable value.

Draft Convention for the Purpose of Facilitating Commercial Propaganda

This Draft Convention, articles 1 to 9 of which are reproduced below, was drawn up by the Economic Committee of the League of Nations and approved in July 1935 by the Delegates of the following 13 Governments : Austria, Belgium, United Kingdom of Great Britain and Northern Ireland, Czechoslovakia, Denmark, France, Italy, Japan, Netherlands, Poland, Sweden, Switzerland, United States of America.

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Article 1

1. The High Contracting Parties agree to exempt from import duties on importation samples of goods of all kinds, provided they are, in the opinion of the Customs Administration concerned, of no saleable value and can only be used for soliciting orders.

2. This however does not apply to samples of goods which form the subject of a State monopoly or the import and transit of which is prohibited or subject to special regulations on moral, humanitarian, hygienic, veterinary or phytopathological grounds, or on grounds of public safety.

Article 2

Samples of the following goods in particular, shall be exempt from import duties, in so far as they are not excluded from exemption under the general principles laid down in the preceding article.

1. Foodstuffs and beverages, including wine, spirits, cider, beer, mineral waters, juice of grapes or other fruits, edible oils, margarine and other edible fats, etc., provided that not more than one sample of each kind or quality is included in every consignment and that the weight or volume of these products does not exceed the limits laid down by the importing country as compatible with the character of samples.

2. Base metals, skins, leather, rubber, wood, cork and similar substances, also materials plaited or spun, in sheets, bundles, sets or individual pieces, of a shape precluding the possibility of any other use than as samples, or in threads, bars, tubes, cables or cords of a maximum length of 10 cm., affixed or not on cards and not capable of any use than as samples.

3. Sets of papers, envelopes, notepaper and picture postcards, rendered useless by being pasted on sheets, cancelled by a stamp, etc., wallpapers, mounted on stands or not, sent by a foreign supplier to customers and bearing his name or mark, and also single portions of paper or wallpaper suitable for showing an entire design but not usable for any other purpose.

4. Samples of threads of all kinds arranged on cards in order of size, quality or colour, sent by a supplier to a customer.

5. Woven textiles of all kinds and felt cloths made into sets or bundles, bearing the name or mark of the supplier, or imported in separate pieces, provided that owing to their size and nature they can be used only as samples or are rendered useless for other purposes ; for example, by cuts or perforations.

6. Coloured samples containing specimens of woven textiles, leather or other materials to show the nature and colour effect, provided that, owing to their size and nature, they can be used only as samples or are rendered useless for other purposes ; for example, by cuts or perforations.

7. Samples of manufactured goods such as shawls, handkerchiefs, ties, stockings, footwear, gloves, gaiters, serviettes, hats, etc., with deep cuts, or forming only half or a quarter of the article and not capable of being used.

8. Samples of wood, stone, pottery, earthenware, china or glass, bearing several kinds of design, sculpture, etc., on one article, which cannot be put to any other use.

9. Screws, rivets, nails, etc., buttons, buckles, hooks and, generally speaking, small articles serving as ornaments or accessories in the clothing trade, affixed to cards containing a single sample of each size and of each kind and constituting genuine collections of samples.

10. Small samples of essence of turpentine, colophony, tartar, wax or other products in the raw state.

11. Samples of fruit essences, artificial dyes, etheric oils and chemical products, provided there is only one sample of each kind and quality in every consignment and that the weight or volume of these products does not exceed the limits fixed by the importing country as compatible with the character of samples.

12. Samples of colours and inks for painting and drawing, in small tubes or bottles of such small content that there is no possibility of their being sold.

ANNEX TO ARTICLES 1 AND 2

1. The Customs Administration may require that the articles be made useless by tearing, perforation or other treatment, this operation, however, being carried out in such a way that the said articles do not lose their value as samples.

2. The rules laid down in Articles 1 and 2 shall not apply to samples made up on behalf of merchants or manufacturers in the country of import.

ARTICLE 3

1. The High Contracting Parties agree to admit free of import duty catalogues, price-lists and trade notices imported in single copies, of whatever weight, whether accompanying the goods or sent separately.

2. The following may be excluded from free admission, even if imported in single copies :

(*a*) Catalogues, price-lists and trade notices printed abroad on behal of traders and manufacturers established in the country of destination ;

(*b*) Catalogues, price-lists and trade notices which do not clearly indicate the foreign firm manufacturing or selling the goods.

ANNEX TO ARTICLE 3

1. Catalogues, price-lists and trade notices sent separately but simultaneously through the post to different addresses shall be treated as consignments of single copies. They must, however, be sent in this form from the place of origin.

2. Catalogues, price-lists and trade notices, accompanying the goods, the number of which corresponds to the number of the articles packed together shall be treated as imported in single copies.

3. Each of the High Contracting Parties shall be entitled to decide whether, and under what conditions, exemption from Customs duty may be granted to consignments of a number of copies of the same catalogue, price-list or trade notice sent to different addresses which are to be posted in the country of destination and which arrive grouped together at the frontier.

Article 4

The High Contracting Parties agree to admit free of import duty, without limitation of quantity, printed matter and posters for propaganda (time-tables in book or poster form, guides, pamphlets, folders, etc., illustrated or not, illustrated posters), the essential purpose of which is to induce the public to visit foreign countries or localities, or fairs or exhibitions abroad, or to attend meetings or events abroad of genuine public interest, provided that such documents are intended for distribution free of charge and that they are obviously intended for purposes of general publicity.

Article 5

The words "import duties" used in Articles 1, 2, 3 and 4, not only include Customs duties, but also all duties and taxes which are payable at the time of and by reason of the importation (*i.e.*, interior taxes, excise duties, statistical taxes, import taxes, etc.).

Article 6

The High Contracting Parties undertake to grant the greatest possible facilities when determining the formalities required in respect of the importation of samples, and more particularly as regards the designation of the Customs offices at which such operation may be effected and the means of transport which may be used.

The High Contracting Parties shall publish promptly all regulations introduced in this respect in such a manner as to enable persons concerned to become acquainted with them and to avoid the prejudice which might result from the application of formalities of which they are ignorant.

Article 7

1. Persons engaged in industrial or business activities in the territory of any of the High Contracting Parties may—subject, if necessary, to the production of an identity card—in the territory of the other High Contracting Parties, either in person or by representatives or travellers in their employ, purchase the goods in which they deal either from merchants or in places where goods are on sale or from producers. They may take orders from merchants and producers who trade in, or use in their establishments, goods of the same kind as those offered to them.

2. Persons engaged in industrial or business activities and their representatives or commercial travellers shall not need for any of these activities special authorisation which would not in the same circumstances be required of national undertakings or their representatives.

3. In the cases referred to in paragraph 1, the exercise of the activities in question shall be exempt, on production, if required, of an identity card, from

all taxes, duties or charges payable to any public authority whatsoever, provided that the persons who have no fiscal domicile or no establishment of any kind in the country in which they carry on their activities, will alone be able to avail themselves of this exemption.

4. The provisions of this article shall not apply to itinerant trading or to hawking or to the soliciting of orders or purchases from persons other than the merchants or producers referred to in paragraph 1, each of the High Contracting Parties reserving full freedom of legislation in this respect.

ANNEX TO ARTICLE 7

1. It is understood that Article 7 refers both to juridical and to natural persons.

2. The identity card referred to in Article 7 shall be that provided for in Article 10 of the International Convention of November 3rd, 1923, relating to the Simplification of Customs Formalities.

3. The provisions of paragraph 3 of Article 7 shall not apply either between Japan, Sweden,
. . . or between these countries on the one hand and the other High Contracting Parties on the other hand.

4. The provisions of Article 7 shall not apply between Denmark and the other High Contracting Parties.

ARTICLE 8

As regards the temporary exemption from duty of dutiable samples and specimens which manufacturers, traders or commercial travellers import for the purpose of engaging in their occupation, the High Contracting Parties shall observe the stipulations of Article 10 of the International Convention of November 3rd, 1923, relating to the Simplification of Customs Formalities.

ARTICLE 9

1. If there should arise between the High Contracting Parties a dispute of any kind relating to the interpretation or application of the present Convention, and if such dispute cannot be satisfactorily settled by diplomacy, it shall be settled in accordance with the agreements in force between the Parties concerning the settlement of international disputes.

2. If there is no such agreement in force between the Parties, the dispute shall be referred to arbitration or judicial settlement. In the absence of agreement on the choice of another tribunal, the dispute shall, at the request of any one of the Parties, be referred to the Permanent Court of International Justice if all the Parties to the dispute are Parties to the Protocol of December 16th, 1920, relating to the Statute of that Court and, if any of the Parties to the dispute is not a Party to that Protocol, to an arbitral tribunal constituted in accordance with the Hague Convention of October 18th, 1907, for the Pacific Settlement of International Disputes.

3. This article shall not apply to the decisions of Customs administrations provided for in Article 1.

4. It is understood that disputes will only be referred by States to arbitration or judicial settlement when any remedies provided by national legislation have been exhausted.

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Secretary General : Dott. Bruno ALESSANDRINI, 107 Via Torino, Rome, 5 ("Incomerce Roma" ; Tel. 43821 & 42915).

National Commissioner : Pietro STOPPANI, 29, Avenue Pierre Ier de Serbie, Paris, XVI (Tel. Pas. 25-95).

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Chairman :

Secretary General :
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Secretary General : Dr. E. D. DE MEESTER, Tournooiveld 2, The Hague ("Chambinconneer The Hague") ; Tel. 180442).

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Secretary General : Erling NAESS, Börsen, Oslo ("Börsen Oslo" ; Tel. 42.38.80).

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Chairman : Prof. Tiberiu MOSOIU.

Secretary General : I. N. IONESCO, 10, Str. Poetu Macedonschi, Bucarest.

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Secretary General : Dr. Pierre Jean POINTET, 17 Börsenstrasse, Zurich ("Incomerc Zurich"); Tel. 23.27.07).

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Secretary General : Mahmut PEKIN, Nahçe Kapi, 4 Uncü Vakif Han, Istanbul (Tel. 24.486).

United Kingdom

Chairman : Hon. John S. MACLAY, C.M.G., M.P.

Director : C. G. FREKE, C.I.E., 14 Queen Anne's Gate, London, S.W.1 ("Incomerc London" Tel. Whi. 2043).

NATIONAL COMMITTEES AT PRESENT INACTIVE

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Bolivia, Burma, Ceylan, Colombia, Ecuador, Eire, El Savador, Iceland, Irak, Iran, Israel, Lebanon, New Zealand, Philippines, Sudan, Syria, Union of South Africa, Uruguay.

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